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5 IN THE UNITED STATES DISTRICT COURT
6 FOR THE NORTHERN DISTRICT OF CALIFORNIA

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8 IN RE STATIC RANDOM ACCESS MEMORY
(SRAM) ANTITRUST LITIGATION

No. M:07-cv-01819 CW
MDL No. 1819

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ORDER VACATING
APPOINTMENT OF JUDGE
FERN SMITH AS
DISCOVERY MASTER AND
APPOINTING NEW
DISCOVERY MASTER

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14 The Honorable Fern Smith (Ret.), having notified the Court
15 that she can no longer serve as Discovery Master in the above-
16 captioned action, and the parties having agreed on the appointment
17 of Martin Quinn to replace Judge Smith as Discovery Master,

18 IT IS HEREBY ORDERED that Martin Quinn shall be appointed
19 Discovery Master in this action. His business address is: JAMS,
20 Two Embarcadero Center, San Francisco, CA 94111

21 1. The Discovery Master shall be appointed to resolve all
22 discovery disputes which may arise among and between the parties in
23 accordance with Federal Rules of Civil Procedure 1 and 26 through
24 37 and the Local Civil Rules of the United States District Court
25 for the Northern District of California. All discovery motions and
26 other discovery disputes in the above captioned action shall be
27 decided by the Discovery Master pursuant to Federal Rule of Civil
28 Procedure 53.

1 2. Martin Quinn shall serve as the Discovery Master until
2 all issues herein have been finally disposed of or determined or
3 until he shall withdraw in accordance with applicable law. If at
4 any time he becomes unavailable or unable to serve as the Discovery
5 Master, the parties shall confer to present an alternative
6 agreed-upon designee to the Court. In the event that the parties
7 cannot agree to an alternate designee, then the Court shall appoint
8 a Discovery Master.

9 3. The Discovery Master shall have the authority to set the
10 date, time and place for all hearings determined by the Discovery
11 Master to be necessary; to preside over hearings (whether
12 telephonic or in-person); to take evidence in connection with
13 discovery disputes; to issue orders resolving discovery motions
14 submitted to the Discovery Master; to conduct telephonic
15 conferences to resolve discovery disputes arising during
16 depositions; to issue orders awarding non-contempt sanctions,
17 including, without limitation, the award of attorney's fees, as
18 provided by Rules 37 and 45.

19 4. All discovery disputes shall be resolved by motion
20 (except those arising during a deposition which the Discovery
21 Master determines can be resolved by telephonic conference during
22 the deposition). The moving party shall first identify each
23 dispute, state the relief sought, and identify authority supporting
24 the requested relief in a meet and confer letter that shall be
25 served on all parties against whom relief is sought by facsimile or
26 electronic mail. The parties to the discovery dispute shall have
27 five court days from the date of service of that letter to attempt
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1 to resolve the dispute. If the dispute has not been resolved
2 within five court days after such service, the moving party may
3 seek relief from the Discovery Master by formal motion or letter
4 brief, at the moving party's option. The opposing party shall have
5 ten court days from the date of service of the motion or letter
6 brief to submit a formal opposition or response. Any reply brief
7 or letter brief shall be served within five court days from the
8 date of service of a formal opposition or response. The hearing on
9 the motion shall take place within ten court days of the service of
10 any reply brief or letter unless (a) the parties agree to another
11 hearing date or agree that no hearing is necessary; (b) the
12 Discovery Master determines that no hearing is necessary; or (c)
13 the Discovery Master is not available, in which case the hearing
14 shall take place on the Discovery Master's first available date.
15 The foregoing shall not prohibit (i) the parties from agreeing to
16 alternate procedures, or (ii) a party from seeking the Discovery
17 Master's immediate resolution of a dispute or resolution of a
18 dispute upon shortened time upon a showing of good cause why a
19 party would be prejudiced absent prompt resolution. Service of any
20 document by fax or electronic mail prior to 6:00 p.m. (PST) shall
21 constitute service on that day.

22 5. The Discovery Master's orders resolving discovery
23 disputes, reports and recommendations pursuant to Rule 53(e) or (f)
24 shall be treated as rulings made by a Magistrate Judge of the
25 United States District Court.

26 6. A court reporter shall transcribe any hearing or other
27 proceeding before the Discovery Master, unless otherwise agreed to

1 by the parties and the Discovery Master.

2 7. The cost of any proceeding before the Discovery Master,
3 including the fees of the Discovery Master, the fees of court
4 reporters who transcribe hearings or other proceedings before the
5 Discovery Master, and the fees of any other person necessary to the
6 efficient administration of the proceeding before the Discovery
7 Master, shall be paid one-third by Direct Purchaser Plaintiffs,
8 one-third by Indirect Purchaser Plaintiffs and one-third by
9 Defendants then participating in the case, consistent with the
10 Federal Rules of Civil Procedure, unless the Discovery Master
11 Orders otherwise. In instances where fewer than all parties are
12 involved in a particular proceeding before the Discovery Master,
13 the fees of such proceeding shall be allocated pro rata amongst the
14 parties to that proceeding. By agreeing to share costs among the
15 parties, no party waives its right to seek recovery or
16 reimbursement for such costs from any other party.

17 8. The Discovery Master shall be compensated according to
18 his regular hourly rate of \$600.

19 9. Pursuant to Federal Rule of Civil Procedure 53(b)(2), the
20 Discovery Master shall proceed with all reasonable diligence.

21 10. Based on an affidavit filed by Martin Quinn pursuant to
22 28 U.S.C. § 455 and Federal Rule of Civil Procedure 53(b)(3), the
23 parties are not aware that he has a relationship to the parties, to
24 counsel, to the action, or to the Court that would require
25 disqualification of a judge under 28 U.S.C. § 455, and based
26 thereon the parties expressly waive any ground for disqualification
27 disclosed therein of Martin Quinn to serve as master in these

1 proceedings.

2 11. The Discovery Master shall not have ex parte
3 communications with a party or counsel.

4 12. The Discovery Master is hereby authorized to receive and
5 consider information and documents designated "CONFIDENTIAL" and
6 "HIGHLY CONFIDENTIAL-ATTORNEYS EYES ONLY" pursuant to the
7 Stipulated Protective Order entered in this matter. The Discovery
8 Master agrees to be bound by said Protective Order.

9 13. The parties shall provide the Discovery Master with a
10 list of any pending discovery motions and courtesy copies of their
11 briefs on each. On all future motions, the parties shall file with
12 the Clerk only the original motion papers¹ and serve a courtesy
13 copy on the Discovery Master. For sealed documents, the parties
14 shall follow Civil Local Rule 79-5 except that the requested sealed
15 document shall be lodged with the Discovery Master and not with the
16 Clerk. If the Discovery Master orders the document to be filed
17 under seal, the party seeking to file the document shall submit to
18 the Clerk one copy of the original document and the Discovery
19 Master's sealing order for filing under seal. Otherwise, the
20 lodged document shall be returned by the Discovery Master to the
21 submitting party and the document shall not be placed in the file.

22 14. When the Discovery Master issues an order on a party's
23 motion, the moving party shall file a notice of order indicating
24 the docket number of the original motion and attaching a copy of
25 the order.

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¹No chambers' copy shall be submitted to the Clerk.
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1 15. The Discovery Master shall preserve and maintain all
2 documents and materials submitted by the parties as well as all
3 orders, reports and recommendations issued by the Discovery Master.
4 These documents, materials, orders, reports and recommendations
5 shall be the record of the Discovery Master's activities and shall
6 be maintained in chronological order until the Discovery Master is
7 informed by the parties that all issues herein have been finally
8 disposed of and determined.

9 16. All third parties subject to discovery requests or
10 deposition in this litigation shall be bound by the terms of this
11 Stipulation and Order.

13 || IT IS SO ORDERED.

15 || DATED: 3/19/2010

Claudia Wilken
CLAUDIA WILKEN
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

IN RE: SRAM

Case Number: M: 07-cv- 01819 CW

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on March 19, 2010, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Martin Quinn
JAMS
Two Embarcadero Center, Suite 1500
San Francisco, CA 94111

Dated: March 19, 2010

Richard W. Wiekking, Clerk
By: Sheilah Cahill, Deputy Clerk